

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**CHARGE AGAINST EMPLOYER**

DO NOT WRITE IN THIS SPACE

Case  
**05-CA-300367**Date Filed  
**07/28/2022****INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

## 1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer American Civil Liberties Union		b. Tel. No. (212) 549-2674
		c. Cell No.
		f. Fax. No.
d. Address (Street, city, state, and ZIP code) 915 15th Street NW  DC Washington 20005	e. Employer Representative Terence Dougherty Deputy Exec Director/General Counsel	g. e-mail  tdougherty@aclu.org
		h. Number of workers employed 320
i. Type of Establishment (factory, mine, wholesaler, etc.) Legal	j. Identify principal product or service Legal advocacy	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 1 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

## 2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

--See additional page--

3. Full name of party filing charge (if labor organization, give full name, including local name and number)  
Emiliana Sparaco  
Nonprofit Professional Employees Union, IFPTE Local 70

4a. Address (Street and number, city, state, and ZIP code)  1225 Eye Street NW Suite 600 DC Washington 20005	4b. Tel. No. (619) 755-7524
	4c. Cell No. (619) 755-7524
	4d. Fax No.
	4e. e-mail esparaco@npeu.org

## 5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

## 6. DECLARATION

I declare that I have read the above charge and that the statements  
are true to the best of my knowledge and belief.

Richard Bialczak

(signature of representative or person making charge)

(Print/type name and title or office, if any)

48-18 Van Dam Street

Address Long Island City NY 11101

Date 07/26/2022 05:37:25 PM

Tel. No.  
(202) 236-7259

Office, if any, Cell No.

Fax No.

e-mail  
rickbial@gmail.com**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)  
PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

## Basis of the Charge

### 8(a)(1)

Within the previous six months, the Employer discharged an employee(s) because the employee(s) engaged in protected concerted activities by, inter alia, discussing wages and/or other terms and conditions of employment and in order to discourage employees from engaging in protected concerted activities.

Name of employee discharged	Approximate date of discharge
(b) (6), (b) (7)(C)	(b) (6), (b) (7) /2022

### 8(a)(1)

Within the previous six months, the Employer discharged an employee(s) because the employee(s) engaged in protected concerted activities by, inter alia, protesting terms and conditions of employment and in order to discourage employees from engaging in protected concerted activities.

Name of employee discharged	Approximate date of discharge
(b) (6), (b) (7)(C)	(b) (6), (b) (7) 2022

### 8(a)(1)

Within the previous six months, the Employer disciplined or retaliated against an employee(s) because the employee(s) engaged in protected concerted activities by, inter alia, discussing wages, hours, or other terms and conditions of employment and in order to discourage employees from engaging in protected concerted activities.

Name of employee disciplined/retaliated against	Type of discipline/retaliation	Approximate date of discipline/retaliation
(b) (6), (b) (7)(C)	Termination	(b) (6), (b) (7) /2022
(b) (6), (b) (7)(C)	Discriminatory application of harassment policy	(b) (6), (b) (7) /2022
(b) (6), (b) (7)(C)	Threat to terminate	(b) (6), (b) (7) /2022
(b) (6), (b) (7)(C)	Discriminatory application of social media policy	(b) (6), (b) (7) /2022
(b) (6), (b) (7)(C)	Cancellation of transfer	(b) (6), (b) (7) /2022

### 8(a)(1)

Within the previous six-months, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by threatening to retaliate against employees if they joined or supported a union.

Name of Employer's Agent/Representative who made the statement	Approximate date
(b) (6), (b) (7)(C)	(b) (6), (b) (7) /2022
(b) (6), (b) (7)(C)	(b) (6), (b) (7) /2022

### 8(a)(1)

Within the previous six-months, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by engaging in surveillance or creating impression of surveillance of employees' union activities.

Name of Employer's Agent/Representative who made the statement	Approximate date

(b) (6), (b) (7)(C)	04/28/2022
---------------------	------------

**8(a)(1)**

Within the previous six-months, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by maintaining work rules that prohibit employees from discussing wages, hours, or other terms or conditions of employment.

**8(a)(1)**

Within the previous six-months, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by maintaining work rules that prevent or discourage employees from engaging in protected concerted activities.

<b>Work Rule</b>
Harassment Policy
Social Media Policy
Gag Rule in Democracy Division



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 5  
BANK OF AMERICA CENTER, TOWER II  
100 S. CHARLES STREET, STE 600  
BALTIMORE, MD 21201

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (410)962-2822  
Fax: (410)962-2198



Download  
NLRB  
Mobile App

July 29, 2022

Richard Bialczak, Esq.  
Law Office of Richard Bialczak  
48-18 Van Dam Street  
Long Island City, NY 11101

Re: American Civil Liberties Union  
Case 05-CA-300367

Dear Mr. Bialczak:

The charge that you filed in this case on July 28, 2022 has been docketed as case number 05-CA-300367. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

**Investigator:** This charge is being investigated by Field Attorney Barbara Duvall whose telephone number is (410)962-2915. If this Board agent is not available, you may contact Supervisory Field Attorney Patrick J. Cullen whose telephone number is (410)962-2916.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, [www.nlrb.gov](http://www.nlrb.gov), or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Presentation of Your Evidence:** As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

**Preservation of all Potential Evidence:** Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

**Prohibition on Recording Affidavit Interviews:** It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

**Correspondence:** All documents submitted to the Region regarding your case MUST be filed through the Agency's website, [www.nlr.gov](http://www.nlr.gov). This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov) or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sean R. Marshall". The signature is fluid and cursive, with the first name "Sean" and last name "Marshall" clearly distinguishable.

Sean R. Marshall  
Regional Director

cc: Ms. Emiliana Sparaco  
Nonprofit Professional Employees  
Union, IFPTE Local 70  
1225 I Street, N.W., Suite 600  
Washington, D.C. 20005



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 5  
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Mobile App

July 29, 2022

Mr. Terence Dougherty  
Deputy Exec Director/General Counsel  
American Civil Liberties Union  
915 15th Street NW  
Washington, DC 20005

Re: American Civil Liberties Union  
Case 05-CA-300367

Dear Mr. Dougherty:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

**Investigator:** This charge is being investigated by Field Attorney Barbara Duvall whose telephone number is (410)962-2915. If this Board agent is not available, you may contact Supervisory Field Attorney Patrick J. Cullen whose telephone number is (410)962-2916.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, [www.nlrb.gov](http://www.nlrb.gov), or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Presentation of Your Evidence:** We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

**Preservation of all Potential Evidence:** Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sean R. Marshall".

Sean R. Marshall  
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

## QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 05-CA-300367
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## 1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

## 2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )

## 3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
--	--

## 4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

## 5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

## 6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

## 7A. PRINCIPAL LOCATION:

## 7B. BRANCH LOCATIONS:

## 8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES \_\_\_\_\_)

	YES	NO
A. Did you <b>provide services</b> valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you <b>provide services</b> valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you <b>provide services</b> valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you <b>sell goods</b> valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you <b>sell goods</b> valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you <b>purchase and receive goods</b> valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you <b>purchase and receive goods</b> valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. <b>Gross Revenues</b> from all sales or performance of services (Check the largest amount): <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

## 10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

## 11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
------	-------	----------------	-------------

## 12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Individual \_\_\_\_\_ and \_\_\_\_\_

CASE 05-CA-300367

American Civil Liberties Union

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

☐ GENERAL COUNSEL  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF \_\_\_\_\_  
NPEU

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Rick Bialczak  
MAILING ADDRESS: 45-18 Court Square, Suite 600  
Long Island City NY,  
E-MAIL ADDRESS: rickbial@gmail.com  
OFFICE TELEPHONE NUMBER: 2022367259  
CELL PHONE NUMBER: \_\_\_\_\_ FAX: \_\_\_\_\_  
SIGNATURE: \_\_\_\_\_  
(Please sign in ink.)  
DATE: Wednesday, August 17, 2022 3:04 PM Eastern Standard Time

<sup>1</sup> IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**FIRST AMENDED CHARGE AGAINST EMPLOYER**

DO NOT WRITE IN THIS SPACE	
Case 05-CA-300367	Date Filed 8/18/22

**INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

## 1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer American Civil Liberties Union		b. Tel. No. 212-549-2674
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 915 15th Street NW Washington, DC 20005	e. Employer Representative Terence Dougherty, Deputy Executive Director and General Counsel	g. e-mail tdougherty@aclu.org
		h. Number of workers employed 320
i. Type of Establishment (factory, mine, wholesaler, etc.) Legal	j. Identify principal product or service Legal Advocacy	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)  
-Around (b) (6), (b) (7)(C), 2022, the above-named employer discriminated against its employee (b) (6), (b) (7)(C) by denying (b) (6) a transfer in retaliation for protected concerted activities.  
-Around (b) (6), (b) (7)(C), 2022, the Employer, by (b) (6), (b) (7)(C) applied the Employer's harassment policy and social media policy to restrict protected concerted activity, and threatened its employee with discharge for violation of those policies.  
-Around (b) (6), (b) (7)(C), 2022, the above-named employer discriminated against its employee (b) (6), (b) (7)(C) by discharging (b) (6) in retaliation for protected concerted activity.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)  
Nonprofit Professional Employees Union, IFPTE Local 70

4a. Address (Street and number, city, state, and ZIP code) 1225 Eye Street NW Suite 600 Washington, DC 20005	4b. Tel. No. 619-755-7524
	4c. Cell No.
	4d. Fax No.
	4e. e-mail esparaco@npeu.org

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)  
International Federation of Professional & Technical Engineers, AFL-CIO, CLC

## 6. DECLARATION

I declare that I have read the above charge and that the statements  
are true to the best of my knowledge and belief.

Richard Bialczak

(signature of representative or person making charge)

(Print/type name and title or office, if any)

Address 48-18 Van Dam Street  
Long Island City, NY 11101

Date 08/18/2002

Tel. No.  
202-236-7259

Office, if any, Cell No.

Fax No.

e-mail  
rickbial@gmail.com**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)  
PRIVACY ACT STATEMENT**

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August 25, 2022

Richard Bialczak, Esq.  
Law Office of Richard Bialczak  
48-18 Van Dam Street  
Long Island City, NY 11101

Re: American Civil Liberties Union  
Case 05-CA-300367

Dear Mr. Bialczak:

We have docketed the first amended charge that you filed in this case.

**Investigator:** This charge is being investigated by Field Attorney Barbara Duvall whose telephone number is (410) 962-2915. If the agent is not available, you may contact Supervisory Field Attorney Patrick J. Cullen whose telephone number is (410) 962-2916.

**Presentation of Your Evidence:** As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

**Preservation of all Potential Evidence:** Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

**Prohibition on Recording Affidavit Interviews:** It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

**Procedures:** Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the

Agency's web site ([www.nlr.gov](http://www.nlr.gov)). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sean R. Marshall". The signature is fluid and cursive, with the first name "Sean" and last name "Marshall" clearly distinguishable.

Sean R. Marshall  
Regional Director

Enclosure: Copy of first amended charge

cc: Ms. Emiliana Sparaco  
Nonprofit Professional Employees  
Union, IFPTE Local 70  
1225 Eye Street, N.W., Suite 600  
Washington, DC 20005



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 5  
BANK OF AMERICA CENTER, TOWER II  
100 S. CHARLES STREET, STE 600  
BALTIMORE, MD 21201

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (410)962-2822  
Fax: (410)962-2198



Download  
NLRB  
Mobile App

August 30, 2022

Mr. Terence Dougherty, Esq.  
Deputy Executive Director  
American Civil Liberties Union  
915 15th Street, N.W.  
Washington, DC 20005

Re: American Civil Liberties Union  
Case 05-CA-302357

Dear Mr. Dougherty:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

**Investigator:** This charge is being investigated by Field Attorney Barbara Duvall whose telephone number is (410) 962-2915. If this Board agent is not available, you may contact Supervisory Field Attorney Patrick J. Cullen whose telephone number is (410) 962-2916.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Presentation of Your Evidence:** We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board

agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

**Preservation of all Potential Evidence:** Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

**Prohibition on Recording Affidavit Interviews:** It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

**Correspondence:** All documents submitted to the Region regarding your case MUST be filed through the Agency's website, [www.nlr.gov](http://www.nlr.gov). This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.



In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. To ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

**Controlled Unclassified Information (CUI):** This National Labor Relations Board (NLRB) proceeding may contain Controlled Unclassified Information (CUI). Subsequent information in this proceeding may also constitute CUI. National Archives and Records Administration (NARA) regulations at 32 CFR Part 2002 apply to all executive branch agencies that designate or handle information that meets the standards for CUI.

\* \* \*

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov) or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



Sean R. Marshall  
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

## QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 05-CA-302357
-----------	-----------------------------

## 1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

## 2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )

## 3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
--	--

## 4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

## 5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

## 6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

## 7A. PRINCIPAL LOCATION:

## 7B. BRANCH LOCATIONS:

## 8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES \_\_\_\_\_)

	YES	NO
A. Did you <b>provide services</b> valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you <b>provide services</b> valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you <b>provide services</b> valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you <b>sell goods</b> valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you <b>sell goods</b> valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you <b>purchase and receive goods</b> valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you <b>purchase and receive goods</b> valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. <b>Gross Revenues</b> from all sales or performance of services (Check the largest amount): <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you <b>begin operations within the last 12 months?</b> If yes, specify date: _____		

## 10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

## 11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
------	-------	----------------	-------------

## 12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
--------------------------------	-----------	----------------	------

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**AMERICAN CIVIL LIBERTIES UNION**

Charged Party

and

**NONPROFIT PROFESSIONAL EMPLOYEES  
UNION, IFPTE LOCAL 70**

Charging Party

**Case 05-CA-302357**

**AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER**

I, the undersigned employee of the National Labor Relations Board, state under oath that on August 30, 2022, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Terence Dougherty, Esq.  
Deputy Executive Director  
American Civil Liberties Union  
915 15th Street, N.W.  
Washington, DC 20005

August 30, 2022

\_\_\_\_\_  
Date

Jacqueline Denegal, Designated Agent of  
NLRB

\_\_\_\_\_  
Name

*/s/ Jacqueline Denegal*

\_\_\_\_\_  
Signature

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Individual \_\_\_\_\_ and \_\_\_\_\_

CASE 05-CA-300367

American Civil Liberties Union

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

☐ GENERAL COUNSEL  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF \_\_\_\_\_  
(b) (6), (b) (7)(C)

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☐ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Rick Bialczak  
MAILING ADDRESS: 45-18 Court Square, Suite 600  
Long Island City NY,  
E-MAIL ADDRESS: rickbial@gmail.com  
OFFICE TELEPHONE NUMBER: 2022367259  
CELL PHONE NUMBER: \_\_\_\_\_ FAX: \_\_\_\_\_  
SIGNATURE: \_\_\_\_\_  
(Please sign in ink.)  
DATE: Thursday, August 18, 2022 8:16 AM Eastern Standard Time

<sup>1</sup> IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 5  
BANK OF AMERICA CENTER, TOWER II  
100 S. CHARLES STREET, STE 600  
BALTIMORE, MD 21201

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (410)962-2822  
Fax: (410)962-2198

December 8, 2022

Kenneth A. Margolis, Esq.  
Kauff McGuire & Margolis LLP  
950 Third Avenue, 14th Floor  
New York, NY 10022

Re: American Civil Liberties Union  
Case 05-CA-302357

Dear Mr. Margolis:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

/s/ *Sean R. Marshall*

Sean R. Marshall  
Regional Director

cc: Mr. Terence Dougherty  
Deputy Executive Director  
American Civil Liberties Union  
915 15th Street, N.W.  
Washington, DC 20005

Richard J. Bialczak, Esq.  
Law Office of Richard Bialczak  
48-18 Van Dam Street, 2nd Floor  
Long Island City, NY 11101


Nonprofit Professional Employees  
Union, IFPTE Local 70  
1225 Eye Street, N.W., Suite 600  
Washington, DC 20005

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**SECOND AMENDED CHARGE AGAINST EMPLOYER**

**INSTRUCTIONS:**

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
05-CA-300367	12/14/22

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
a. Name of Employer American Civil Liberties Union, Inc.		b. Tel. No. (202) 549-2674	
		c. Cell No.	
d. Address (Street, city, state, and ZIP code) 915 15th Street, N.W., Washington, DC 20005	e. Employer Representative Terrence Dougherty Deputy Executive Director and General Counsel	f. Fax No.	
		g. e-mail tdougherty@aclu.org	
		h. Number of Workers Employed 320	
i. Type of Establishment (factory, mine, wholesaler, etc.) Legal	j. Identify Principal Product or Service  Advocacy		
<p>1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsection (1) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.</p> <p>2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)</p> <p>Around (b) (6), (b) (7)(C), 2022, the above-named employer discriminated against its employee (b) (6), (b) (7)(C) by denying (b) (6), (b) (7)(C) a transfer in retaliation for protected concerted activities and/or to discourage employees from engaging in these activities.</p> <p>Around (b) (6), (b) (7)(C) 2022, the above-named employer discriminated against its employee (b) (6), (b) (7)(C) by discharging (b) (6), (b) (7)(C) in retaliation for protected concerted activity and/or to discourage employees from engaging in these activities.</p> <p>3. Full name of party filing charge (if labor organization, give full name, including local name and number) Nonprofit Professional Employees Union (NPEU), International Federation of Professional &amp; Technical Engineers (IFPTE) Local 70</p>			
4a. Address (Street and number, city, state, and ZIP code) 1225 Eye Street, N.W., Suite 600, Washington, DC 20005		4b. Tel. No.	
		4c. Cell No. (619)755-7524	
		4d. Fax No.	
		4e. e-mail esparaco@npeu.org	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Federation of Professional & Technical Engineers, AFL-CIO, CLC			
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Tel. No. (202) 236-7259	
 (signature of representative or person making charge)		Office, if any, Cell No. (202) 236-7259	
		Fax No.	
Address: 48-18 Van Dam Street Long Island City, NY 11101		Richard Bialczak, Esq. (Print/type name and title or office, if any) Date: 12/12/2022 e-mail rickbial@gmail.com	

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**  
**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 5  
BANK OF AMERICA CENTER, TOWER II  
100 S. CHARLES STREET, STE 600  
BALTIMORE, MD 21201

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (410)962-2822  
Fax: (410)962-2198



Download  
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Mobile App

December 16, 2022

Kenneth A. Margolis, Esq.  
Kauff McGuire & Margolis LLP  
950 Third Avenue, 14th Floor  
New York, NY 10022

Re: American Civil Liberties Union  
Case 05-CA-300367

Dear Mr. Margolis:

Enclosed is a copy of the second amended charge that has been filed in this case.

**Investigator:** This charge is being investigated by Field Attorney Barbara Duvall whose telephone number is (410) 962-2915. If the agent is not available, you may contact Supervisory Field Attorney Patrick J. Cullen whose telephone number is (410) 962-2916.

**Presentation of Your Evidence:** As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the second amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

**Preservation of all Potential Evidence:** Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

**Prohibition on Recording Affidavit Interviews:** It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

**Procedures:** Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site ([www.nlr.gov](http://www.nlr.gov)). You must e-file all documents electronically or provide a

written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sean R. Marshall". The signature is fluid and cursive, with the first name "Sean" and last name "Marshall" clearly distinguishable.

Sean R. Marshall  
Regional Director

Enclosure: Copy of Second Amended Charge

cc:

Mr. Terence Dougherty  
Deputy Exec. Director/General Counsel  
American Civil Liberties Union  
915 15th Street, N.W.  
Washington, DC 20005





UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 5  
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100 S. CHARLES STREET, STE 600  
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Fax: (410)962-2198



Download  
NLRB  
Mobile App

December 16, 2022

Richard Bialczak, Esq.  
Law Office of Richard Bialczak  
48-18 Van Dam Street  
Long Island City, NY 11101

Re: American Civil Liberties Union  
Case 05-CA-300367

Dear Mr. Bialczak:

We have docketed the second amended charge that you filed in this case.

**Investigator:** This charge is being investigated by Field Attorney Barbara Duvall whose telephone number is (410) 962-2915. If the agent is not available, you may contact Supervisory Field Attorney Patrick J. Cullen whose telephone number is (410) 962-2916.

**Presentation of Your Evidence:** As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the second amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

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Agency's web site ([www.nlr.gov](http://www.nlr.gov)). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sean R. Marshall".

Sean R. Marshall  
Regional Director

Enclosure: Copy of Second Amended Charge

cc: Ms. Emiliana Sparaco  
Nonprofit Professional Employees  
Union, IFPTE Local 70  
1225 Eye Street, N.W., Suite 600  
Washington, DC 20005

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 5**

AMERICAN CIVIL LIBERTIES UNION, INC.

and

NONPROFIT PROFESSIONAL EMPLOYEES  
UNION (NPEU), INTERNATIONAL FEDERATION  
OF PROFESSIONAL & TECHNICAL ENGINEERS  
(IFPTE) LOCAL 70 A/W INTERNATIONAL  
FEDERATION OF PROFESSIONAL & TECHNICAL  
ENGINEERS, AFL-CIO, CLC

Cases 05-CA-300367  
and  
05-CA-302762

**ORDER CONSOLIDATING CASES,  
CONSOLIDATED COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED that Cases 05-CA-300367 and 05-CA-302762, which are based on charges filed by Nonprofit Professional Employees Union (NPEU), International Federation of Professional & Technical Engineers (IFPTE) Local 70 a/w International Federation of Professional & Technical Engineers, AFL-CIO, CLC (the Charging Party), against American Civil Liberties Union, Inc. (Respondent), are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Board's Rules and Regulations, and alleges that Respondent has violated the Act as described below.

1. (a) The charge in Case 05-CA-300367 was filed by the Charging Party on July 28, 2022, and a copy was served on Respondent by U.S. mail on July 29, 2022.

(b) The first amended charge in Case 05-CA-300367 was filed by the Charging Party on August 18, 2022, and a copy was served on Respondent by U.S. mail on August 25, 2022.

(c) The second amended charge in Case 05-CA-300367 was filed by the Charging Party on December 14, 2022, and a copy was served on Respondent by U.S. mail on December 16, 2022.

(d) The charge in Case 05-CA-302762 was filed by the Charging Party on August 18, 2022, and a copy was served on Respondent by U.S. mail on September 7, 2022.

2. (a) At all material times, Respondent has been a nonprofit corporation with an office and place of business in Washington, D.C., and has been engaged in social and political advocacy related to the protection of civil liberties throughout the United States.

(b) In conducting its operations during the 12-month period ending February 28, 2023, Respondent derived gross revenues in excess of \$250,000.

(c) In conducting its operations during the period described above in paragraph 2(b), Respondent purchased and received at its Washington, D.C. facility products, goods, and materials valued in excess of \$5,000 directly from points outside the District of Columbia.

(d) During the period described in paragraph 2(b), Respondent has conducted its business operations described above in paragraph 2(a) in Washington, D.C., and the Board asserts plenary jurisdiction over enterprises in Washington, D.C.

(e) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), (7) of the Act.

3. At all material times, the Charging Party has been a labor organization within the meaning of Section 2(5) of the Act.

4. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act, and agents of Respondent within the meaning of Section 2(13) of the Act.

- (a) (b) (6), (b) (7)(C) - (b) (6), (b) (7)(C)
- (b) (b) (6), (b) (7)(C) - (b) (6), (b) (7)(C)
- (c) (b) (6), (b) (7)(C) - (b) (6), (b) (7)(C)
- (d) (b) (6), (b) (7)(C) - (b) (6), (b) (7)(C)
- (e) (b) (6), (b) (7)(C) - (b) (6), (b) (7)(C)
- (f) (b) (6), (b) (7)(C) - (b) (6), (b) (7)(C)
- (g) (b) (6), (b) (7)(C) - (b) (6), (b) (7)(C)
- (h) (b) (6), (b) (7)(C) - (b) (6), (b) (7)(C)
- (i) (b) (6), (b) (7)(C) - (b) (6), (b) (7)(C)

5. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time employees of Respondent in the classifications listed in Appendix A to the Letter of Understanding Voluntary Recognition through Card Check Between Respondent and the Charging Party; but excluding managerial employees, temporary employees, confidential employees, guards, supervisors as defined in the Act, all employees represented by another labor organization, and all other employees of Respondent.

(b) Since May 11, 2021, and at all material times, Respondent has recognized the Charging Party as the exclusive collective-bargaining representative of the Unit. This recognition has been embodied in a recognition agreement dated April 30, 2021.

(c) At all times since May 11, 2021, based on Section 9(a) of the Act, the Charging Party has been the exclusive collective-bargaining representative of the Unit.

6. Throughout 2020, 2021, and until about (b) (6), (b) (7) 2022, Respondent's employee (b) (6), (b) (7)(C) engaged in concerted activities with other employees for the purposes of mutual aid and protection by concertedly complaining about wages, hours, and terms and conditions of employment.

7. (a) About (b) (6), (b) (7)(C), 2022, Respondent denied a transfer of its employee (b) (6), (b) (7)(C).

(b) About (b) (6), (b) (7)(C) 2022, Respondent imposed discretionary discipline on its Unit employee (b) (6), (b) (7)(C) by discharging (b) (6), (b) (7)(C).

(c) Respondent engaged in the conduct described above in paragraphs 7(a) and 7(b) because the named employee engaged in concerted activities, and to discourage employees from engaging in these activities.

(d) Respondent engaged in the conduct described above in paragraph 7(b) without providing notice to the Charging Party and without affording the Charging Party an opportunity to bargain with Respondent.

(e) The subjects set forth above in paragraph 7(b) relate to the wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

8. By the conduct described above in paragraph 7(a) through 7(c), Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

9. By the conduct described above in paragraphs 7(b) and 7(d), Respondent has been failing and refusing to bargain collectively with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

10. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before March 27, 2023**. Respondent also must serve a copy of the answer on each of the other parties.

The answer must be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within

three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

### **NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT on **July 18, 2023, at 10:00 a.m. in Board Hearing Room 6001, 1015 Half Street SE, Washington, D.C. 20570**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this consolidated complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Baltimore, Maryland this 13<sup>th</sup> day of March 2023.

(SEAL)

/s/ *Sean R. Marshall*

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Sean R. Marshall, Regional Director  
National Labor Relations Board, Region 5  
Bank of America Center, Tower II  
100 S. Charles Street, Suite 600  
Baltimore, Maryland 21201

Attachments



## Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: [www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules\\_and\\_regs\\_part\\_102.pdf](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf).

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at [www.nlr.gov](http://www.nlr.gov), click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

**Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement.** The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

### I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

### II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in

**evidence.** If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.

- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

### III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.

- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.

- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Case 05-CA-300367 and 05-CA-302762

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

**COUNSEL FOR RESPONDENT:**

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Kenneth A. Margolis Esq.  
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New York, NY 10022

**RESPONDENT:**

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Mr. Terence Dougherty  
Deputy Exec Director/General Counsel  
American Civil Liberties Union  
915 15th Street, N.W.  
Washington, D.C. 20005

**COUNSEL FOR CHARGING PARTY:**

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Long Island City, NY 11101

**CHARGING PARTY:**

esparaco@npeu.org  
Ms. Emiliana Sparaco  
Nonprofit Professional Employees Union,  
IFPTE Local 70  
1225 I Street, N.W., Suite 600  
Washington, D.C. 20005

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 5

AMERICAN CIVIL LIBERTIES UNION, INC.

and

CASES 05-CA-300367  
05-CA-302762

NONPROFIT PROFESSIONAL EMPLOYEES  
UNION (NPEU), INTERNATIONAL FEDERATION  
OF PROFESSIONAL & TECHNICAL ENGINEERS  
(IFPTE) LOCAL 70 A/W INTERNATIONAL  
FEDERATION OF PROFESSIONAL & TECHNICAL  
ENGINEERS, AFL-CIO, CLC

**ANSWER**

Respondent, American Civil Liberties Union, Inc., by its attorneys, as and for its Answer to the Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, hereby alleges:

1. (a) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1(a) of the Complaint, except admits that a copy of the charge in case 05-CA-300367 was served upon Respondent by U.S. Mail on or about July 29, 2022.

(b) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1(b) of the Complaint, except admits that a copy of the first amended charge in case 05-CA-300367 was served upon Respondent by U.S. Mail on or about August 25, 2022.

(c) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1(c) of the Complaint,

except admits that a copy of the second amended charge in case 05-CA-300367 was served upon Respondent by U.S. Mail on or about December 16, 2022.

(d) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1(d) of the Complaint, except admits that a copy of the charge in case 05-CA-302762 was served upon Respondent by U.S. Mail on or about September 7, 2022.

2. (a) Respondent admits the allegations contained in paragraph 2(a) of the Complaint.

(b) Respondent admits the allegations contained in paragraph 2(b) of the Complaint.

(c) Respondent admits the allegations contained in paragraph 2(c) of the Complaint.

(d) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2(d) of the Complaint, except admits that during the period described in paragraph 2(b) it conducted certain business operations described above in paragraph 2(a) in Washington, D.C.

(e) Respondent admits the allegations contained in paragraph 2(e) of the Complaint

3. Respondent admits the allegations contained in paragraph 3 of the Complaint, except denies knowledge or information sufficient to form a belief as to the meaning of “all material times.”

4. Respondent admits the allegations contained in paragraph 4 of the Complaint, except denies knowledge or information sufficient to form a belief as to the meaning of “all material times.”

5. (a) Respondent admits the allegations contained in paragraph 5(a) of the Complaint.

(b) Respondent admits the allegations contained in paragraph 5(b) of the Complaint.

(c) Respondent admits the allegations contained in paragraph 5(c) of the Complaint.

6. Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint, except admits that at certain times its employee (b) (6), (b) (7)(C) lodged certain complaints with Respondent.

7. (a) Respondent denies the allegations contained in paragraph 7(a) of the Complaint.

(b) Respondent denies the allegations contained in paragraph 7(b) of the Complaint, except admits that on or about (b) (6), (b) (7)(C) 2022 Respondent discharged (b) (6), (b) (7)(C)

(c) Respondent denies the allegations contained in paragraph 7(c) of the Complaint.

(d) Respondent denies the allegations contained in paragraph 7(d) of the Complaint.

(e) Respondent denies the allegations contained in paragraph 7(e) of the Complaint.

8. Respondent denies the allegations contained in paragraph 8 of the Complaint.

9. Respondent denies the allegations contained in paragraph 9 of the Complaint.

10. Respondent denies the allegations contained in paragraph 10 of the Complaint.

#### **AFFIRMATIVE AND SEPARATE DEFENSES**

Assertion of an affirmative or other defense by Respondent does not constitute the assumption by Respondent of any burden of proof properly allocated to the General Counsel of the National Labor Relations Board or the Charging Party, as the case may be.

**FIRST:** The allegations of the Complaint fail to state a claim for which relief may be granted.

**SECOND** – The allegations of the Complaint are barred in whole or in part by the limitation of time in Section 10(b) of the Act.

**THIRD** – The Complaint must be dismissed, in whole or in part, because its employee (b) (6), (b) (7)(C) Oh was terminated for just cause.

**FOURTH** – The Complaint should be deferred, in whole or in part, to the binding arbitration process in which the parties currently are engaged.

**FIFTH** – The Complaint must be dismissed because the General Counsel lacked the authority to prosecute the Complaint in that the President could not remove the predecessor General Counsel without cause during the four-year term to which he was appointed.

**WHEREFORE**, Respondent AMERICAN CIVIL LIBERTIES UNION, INC., requests that the Consolidated Complaint be dismissed in its entirety and that Respondent have such other, further and additional relief as may be warranted.



Dated: New York, New York.  
March 27, 2023

Respectfully submitted,

KAUFF MCGUIRE & MARGOLIS LLP

By: 

Kenneth A. Margolis

950 Third Avenue  
Fourteenth Floor  
New York, NY 10022  
(212) 644-1010

Attorneys for Respondent  
AMERICAN CIVIL LIBERTIES  
UNION, INC.

**CERTIFICATION OF SERVICE BY E-FILING & ELECTRONIC MAIL**

The undersigned, an attorney admitted to practice before the Courts of the State of New York, affirms under penalty of perjury, that, on March 27, 2023, pursuant to the Board's e-filing rules, he caused a true and correct copy of the attached Answer to be served on behalf of Respondent upon the Charging Party and Counsel for the Charging Party via electronic mail at the following addresses designated for such purposes:

Emiliana Sparaco  
Nonprofit Professional Employees Union  
IFPTE Local 70  
1225 I Street NW, Suite 600  
Washington, DC 20005  
esparaco@npeu.org

Richard Bialczak, Esq,  
Counsel for the Charging Party  
Law Office of Richard Bialczak  
48-18 Van Dam Street  
Long Island City, NY 11101  
rickbial@gmail.com

Dated: March 27, 2023  
New York, New York

Kenneth A. Margolis  
Kenneth A. Margolis

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 5**

AMERICAN CIVIL LIBERTIES UNION, INC.

and

NONPROFIT PROFESSIONAL EMPLOYEES  
UNION (NPEU), INTERNATIONAL FEDERATION  
OF PROFESSIONAL & TECHNICAL ENGINEERS  
(IFPTE) LOCAL 70 A/W INTERNATIONAL  
FEDERATION OF PROFESSIONAL & TECHNICAL  
ENGINEERS, AFL-CIO, CLC

Cases 05-CA-300367  
and  
05-CA-302762

**ORDER RESCHEDULING HEARING**

IT IS HEREBY ORDERED that the hearing in the above-entitled matter be, and the same hereby is, rescheduled from July 18, 2023, to August 15, 2023, at 10:00 a.m., and on consecutive days thereafter until at Jones-Laughlin Conference Room 3054, 1015 Half Street SE, Washington, D.C. 20570.

Dated at Baltimore, Maryland this 28<sup>th</sup> day of April 2023.

(SEAL)

/s/ Sean R. Marshall

Sean R. Marshall, Regional Director  
National Labor Relations Board, Region 5  
Bank of America Center - Tower II  
100 South Charles Street, Suite 600  
Baltimore, Maryland 21201